

30 April 2010

The Head of Risk Management Division
Bank of England
Threadneedle Street
London, EC2R 8AH

Re: Comments on the Bank of England consultative paper on extending the eligible collateral in the Discount Window Facility and information transparency for asset-backed securitisations

Dear Sirs,

On behalf of the Association for Financial Markets in Europe / European Securitisation Forum (**AFME / ESF**), the AFME / European Covered Bond Dealers Association (**AFME / ECBDA**), the British Bankers' Association (**BBA**) and the Council of Mortgage Lenders (**CML**) the originators/issuers, investors and dealers are pleased to provide industry feedback to the Bank of England (**Bank**) on the consultative paper regarding "Extending the eligible collateral in the Discount Window Facility and information transparency for asset-backed securitisations" (**Consultative Paper**). Originators/issuers, investors and dealers appreciate the opportunity to provide input in the consultation process¹. The European securitisation industry has been and remains committed to increasing transparency in the securitisation market. On 2 July 2008, nine European and global trade associations (including AFME / ESF) released "Ten Industry Initiatives to Increase Transparency in the European Securitisation Markets" to the European Commission. More recently, AFME / ESF has been actively engaged with members in an effort to standardise investor reports, definitions and documentation for UK securitisation transactions. These initiatives are currently under way with representatives from issuers, investors, credit rating agencies and law firms.

Our responses to the questions contained within the Consultation are as follows:

¹ This consultation is building on similar issues recently raised by the European Central Bank (**ECB**) in its Public Consultation on the provisions of ABS loan-level information in the Eurosystem Collateral Framework released on 23 December 2009 (**ECB Consultation**), which originators/issuers provided feedback to on 26 February 2010 (the AFME / ESF and ISDA response can be found [here](#)) and in respect of which the European Central Bank has released "Results of the Public Consultation on the Provision of ABS Loan-Level Information in the Eurosystem Collateral Framework" on 23 April 2010.

Expansion of eligible collateral in the Discount Window Facility (DWF)

Paragraph 10

- (i) *In the view of counterparties, is there likely to be demand for delivering loans as collateral in the DWF?*

Yes. Originators/issuers are of the opinion that counterparties would welcome the expansion of eligible collateral in the DWF and that there will be demand for delivering loans as collateral in the DWF. The expansion of eligible collateral is welcomed by some ESF members and in particular those of which have begun providing loan-level data to investors. Originators/issuers are of the opinion that this initiative will assist towards increasing efficient and timely access to the DWF. As highlighted in this response, the direct use of raw loan portfolios may be more operationally problematic than the use of the current structured products accepted by the Bank; however, our members believe that a possible beneficial outcome of the acceptance of raw loan portfolios by the Bank is that this would encourage wider participation in the DWF. Because the loan portfolios would potentially be unrated and would not require full securitisation structures to be put in place, this may reduce costs as there will be no need for credit rating agencies (CRAs) or for other costs to be incurred in putting securitisation structures in place. Originators/issuers believe that widening participation would be a positive sign to the market and will go some way towards increasing short-term liquidity and providing certainty to the banking system in the UK and throughout Europe.

It would be worth noting at this point that some of our members who are non-bank financial institutions have also indicated that they believe that the DWF should be extended to enable such institutions to participate in the scheme for the reason that they are active participants in the ABS market and the structures contemplated by the Consultative Paper. Non-bank financial institutions have indicated that they believe that the potential for increased participation and increasing short-term liquidity would be beneficial to the wider market.

- (ii) *What would be the main obstacles/challenges for participating counterparties?*

In our opinion, the main obstacles/challenges for participating counterparties would be:

- (a) The loan portfolio eligibility criteria and counterparty eligibility criteria (this is discussed in further detail below).
- (b) The lack of predictability and transparency of the calculation of haircuts. The Consultative Paper states at paragraph 7 that "The Bank may vary haircuts at its discretion to reflect the risk in specific collateral types or specific counterparties". This lack of transparency

with regard to haircuts and costs related to participation in the DWF makes such costs unpredictable and, as such, makes it more difficult for certain counterparties, particularly those with lower levels of short-term liquidity, to accurately calculate and provide for such associated costs prior to committing to its participation in the DWF scheme. This may, in turn, limit the extent to which market participants use the DWF scheme. We suggest the Bank provides general guidance with respect to haircuts.

- (c) The potential administrative costs and burdens of due diligence and reporting on a loan-by-loan level (which may outweigh the cost-saving of not obtaining ratings or completing a securitisation structure).

(iii) *What would be the primary benefits over and above other collateral types?*

Our members believe that a potential indirect benefit of the use of these collateral types may be that the diligence associated with ensuring that the portfolios of loans meet the Bank's DWF eligibility criteria may, in certain cases, also make it easier to then package such assets into other structured products. In this way, raw loan collateral eligibility may indirectly contribute to the opening up of the securitisation, markets and to the further development of standardised transparency approaches. On the other hand, pre-positioning will require assets to be transferred to the Bank. This is inefficient if the collateral could otherwise be used for secured funding.

(iv) *Which types of loan portfolio would be the most straightforward to deliver in the short term and in the medium term?*

Originators/issuers are of the opinion that it would be most straightforward to deliver loan portfolios of corporate loans and commercial real estate loans, since consumer and data protection laws² may make it difficult to transfer and re-transfer residential mortgages and consumer loans with ease on a short-term and medium-term basis. However, as all the proposed loan types are of the type commonly used in current and legacy structured products, it is unlikely that the proposed method of equitable assignment of such portfolios will be significantly problematic. It is now often market practice for the underlying documentation in respect of each of the proposed loan types to provide for the delivery of such loan types. Also, and in the case of current and legacy structured products, the assignment or transfer of the loans under the DWF may be capable of being structured with regard to such regulatory requirements, including consumer and data protection laws.

Paragraph 14

(ii) *Would any of the proposed criteria prevent widespread participation?*

² Such as the Data Protection Act 1998.

Subject to further detail as to the proposed criteria, originators/issuers are of the opinion that the proposed criteria are unlikely to prevent widespread participation since market participants are currently subject to their own internal procedural and risk assessment methodologies, which align with the requirements. However, originators/issuers believe that it would be beneficial for the internal review required by the Bank to be broadly in line with those requested by other relevant supervisory or regulatory bodies in order to enhance consistency and standardisation with regards to internal review requirements. This will help ensure that the cost and administrative burden on participants is more manageable.

Paragraph 16

- (i) *Do counterparties have any views on the proposed loan eligibility requirements?*

Originators/issuers are of the opinion that loan eligibility should extend to revolving loans (as it is unclear why they are not included). Generally, the Bank's proposed requirements that all eligible loans must be freely transferrable, contain no contractual restrictions, be fully drawn/not revolving and be at least BB- shadow rated would rule out a great deal of the more illiquid collateral.

- (ii) *Would counterparties comment on the currency and minimum/maximum maturity criteria for individual loans accepted as collateral?*

Originators/issuers note that, with the exception of the Japanese yen (in relation to Japanese Government Bonds and bank debt issued under the UK government's Credit Guarantee Scheme), the current currency eligibility criteria for DWF participation remains the same. We believe this is reasonable, although originators/issuers would welcome the opportunity to engage in dialogue with the Bank in the future with regards to perhaps revising this should there be market changes in the composition of ABS.

Given the increased prevalence of longer term commercial and residential mortgage loans, originators/issuers would propose that the maximum legal maturity criteria for commercial and residential mortgage loans be extended to forty years to take into account market practice.

- (iii) *The Bank is minded to set the minimum rating requirement at BB- (or its internal equivalent) for corporate loans but seeks views on the potential impact of such a requirement.*

Originators/issuers are of the opinion that the shadow rating threshold should be set at B.

- (iv) *Would any of the proposed criteria prevent widespread participation?*

Our members are of the opinion that the proposed criteria will prevent widespread participation of commercial and investment banks without portfolios of consumer loans. Originators/issuers would like to know the rationale for this as originators/issuers believe that, given recent events in the financial markets, opening participation in the DWF scheme to commercial, investment banks and specialised lenders would help to increase liquidity and provide greater stability more generally in the banking sector. In addition, originators/issuers believe that low maximum borrower and industry concentration limits may restrict widespread participation. As such, originators/issuers would welcome further information and dialogue with the Bank as to what these limits would be.

Paragraph 22

- (ii) *Do counterparties see any difficulties with the methods of transferring loans outlined above?*

As described by the Consultative Paper, counterparties may have restrictions on encumbering based on their own existing funding documentation with third parties (e.g. as a result of having granted a negative pledge) which may limit the pre-positioning and offering of the loan portfolios as collateral using any of the methods highlighted by the consultative document³.

The methods raise an issue that when loans are transferred to the Bank by way of equitable assignment or held on trust, should the loans be legally transferred to the Bank on an event of default or the insolvency of a counterparty, the Bank would need to have in place the relevant structures and capability to manage the portfolios itself. It is also possible that the loans could be transferred to a sub-participant or intermediary with relevant structures or capability in place to manage such portfolios. We believe that this potential default scenario needs to be considered.

Paragraph 27

- (i) *What are the views of counterparties on the pre-positioning of loan pools with the Bank?*

Pre-positioning will require assets to be transferred to the Bank. Originators/issuers are of the view that this is inefficient if the collateral could otherwise be used for secured funding. The DWF is an emergency facility, so originators/issuers anticipate that it would be the more illiquid collateral that a bank would seek to pre-position.

³ These are: equitable assignment, trust structure and secured loan structure.

- (ii) *Would there be any constraints (e.g. operational, legal or other) which might make pre-positioning loans impractical?*

Pre-positioning will require legal diligence and pool audits that are already prevalent in creating rated self-issued ABS for use in the Bank's operations. In the assessment of originators/issuers, the only major cost saving, therefore, is the CRA fees.

Paragraph 29

- (iii) *What would be the potential constraints on translating/mapping credit risk model outputs to a public rating agency scale?*

Different banks and investors use different methodologies for the mapping of credit ratings, and these may be different from CRA approaches. Developing a single translated/mapped output will require alignment of methodologies and systems.

Paragraph 35

- (iii) *Counterparties are asked to comment on their ability to provide updated information on both pre-positioned loan portfolios and loan portfolios provided as collateral on a weekly basis.*

Some of our members have indicated that given that the mortgages and most other assets pay monthly, it would be difficult to see the benefit in weekly data in respect of pre-positioned loans. In addition, weekly data would be particularly onerous for smaller participants and esoteric asset classes (e.g. social housing loans), and the market standard in the UK is for quarterly data updates.

Enhanced disclosure requirements for eligibility of wider collateral in the Bank of England's operations

Paragraph 47

- (i) *Do counterparties perceive any constraints in providing loan-level data (a) to the Bank and (b) to the wider investor community?*

Our members welcome the proposal from the Bank to introduce greater transparency in the ABS and loan market and are pleased that the efforts of AFME / ESF to enhance transparency and disclosure in the securitisation markets have been noted within the Consultative Paper. They understand the principle that more detailed information in relation to the assets underlying ABS would help the Bank to better assess the risk associated with the ABS that it accepts as collateral. This will ultimately benefit the broader ABS market. Originators/issuers agree that the reporting of loan-level data and the availability of this information to the broader market on an ongoing basis will

contribute to restoring investors' confidence in the securitisation market. The securitisation market is a direct source of credit for households and corporates and supports the overall UK economy. Enhancing loan-level transparency is a necessary step to restart this market.

However, originators/issuers note that the Consultative Paper largely focuses on the impact of the proposals on issuers and originators/issuers are of the opinion that it will be not only issuers but also originators/sellers that will be affected by the proposals. When appropriate, originators/issuers will clarify to which group our comments are referred. Generally, application of standardised loan-level data reporting involves specific practical challenges, such as:

- (a) Differences between existing and new transactions, existing and new assets, and structures

Given the defined range of securitisation types currently accepted by the Bank and underlying asset-level legal and institutional frameworks, UK originators submit that the standardised reporting framework will need to take into account inherent differences between asset classes and jurisdictions.

UK originators also expect that standardised loan-level data reporting will be much easier to implement for new transactions where there is an opportunity for the issuers to address the Bank's requirements in the structuring and development of the transaction and asset origination than for existing transactions (which were structured to comply with the laws and regulations in place at the time of issuance, and where existing procedures and structures will be embedded and IT infrastructures will be already designed). Moreover, UK originators have raised concerns regarding some existing underlying assets which may be securitised after implementation of the loan-level reporting requirements, because for those loans the requested information may simply not be available or may simply not meet the quality standards.

- (b) UK master trust specific issues

The largest segment of UK prime residential mortgage-backed securities (RMBS) is master trust issuance. Master trust issuers currently do not provide loan-level data to investors due to the large amount of data involved and the revolving nature of such portfolios, which in some cases include as many as 500,000 loans. Due to the relatively wide investor base for some of the recent UK master trust issuances, these issuers ask whether loan-by-loan reporting should be required on transactions where there is no risk transfer and in which only the triple-A tranches were distributed to investors; rather,

stratification tables have typically been considered sufficient by investors in these transactions.

Some banks have indicated that the market is currently reliant on the implicit and ongoing support from originators in the pricing of master trust bonds and, as such, there is little need for the provision of loan-by-loan data to investors most of the time, however, for the purposes of specific calculation of CPR, such information should be made available. Some banks have suggested that whilst "lighter" loan level data templates may be recommended for master trust issuances, the issuers and the Bank should consider whether such a "lighter" format would meet the needs of investors going forward. Investors are broadly supportive of any additional data being available (see results of the ABS Transparency Survey below). Originators/issuers would welcome increased consultation with the Bank on the issues posed by UK master trusts in order to develop a template which is satisfactory and of benefit to counterparties who are likely to rely on them.

(c) Covered bond specific issues

Originators/issuers support loan-level data and document and reporting standardisation conceptually, in their capacity as asset traders. However, originators/issuers submit that loan-level reporting is not necessary for covered bonds since the analysis of the underlying loan assets is not part of the risk and pricing analysis of those types of securities. Detailed stratification tables, loan-level data tapes and cashflow models are relevant for the risk and pricing analysis of ABS but are rarely used for the risk and pricing analysis of covered bonds.

(d) Time and cost of system changes

To the extent that issuers^ø as well as servicers^ø and originators/sellers^ø IT systems require changes to accommodate the provision of loan-level data in order to populate the loan-level data fields, the timing and cost of this should be taken into consideration. This is particularly the case where the issuer is securitising pools of assets originated on different data systems that are not fully integrated. Some institutions even have specialised IT systems developed for their particular RMBS programme. If third-party checks are required to confirm the format of the reported information (e.g. by IT service providers) this would present additional timing, cost and coordination challenges for market participants. We suggest that, once the Bank has decided on the general approach and structure for its operation, a further discussion will be undertaken specifically with IT departments and third-party

service providers of servicers and originators/sellers in order to develop the details of required system changes (and the cost and timing implications of these).

(e) Provision of overlapping information to more than one party

Currently, some issuers provide loan-level data both at inception of structured product transactions/issuance of ABS and on an ongoing basis, where required, to those CRAs that rate each particular transaction for the purposes of ongoing credit monitoring. The implementation of the enhanced disclosure requirement with granular asset information proposed by the Bank would require issuers to undertake a further and separate reporting workstream, in addition to the disclosure of loan-level data already made periodically to the CRAs. The reporting is currently made in different formats and at dates which may differ from those required by the Bank (although generally on a quarterly basis and aligned with the payment dates of each transaction). Issuers/originators propose that the Bank coordinates with the industry, the CRAs and other relevant third parties, such as servicers and cash managers, to create unique common reporting templates for each asset class, in order to maximise efficiencies pre- and post-implementation as well as pre- and post-issuance.

Also, issuers/originators have to comply with reporting requirements imposed by various regulations⁴, as well as producing investor reports according to established formats for existing transactions. Indeed, many issuers have continuously improved their RMBS reporting standards following the development of the AFME / ESF RMBS Issuer Principles for Transparency and Disclosure (**RMBS Principles**) and Issuer Report Grades issued by CRAs based on information publicly available to investors. These various reporting and disclosure requirements imposed on issuers should be considered before implementation of the enhanced disclosure requirements from the perspective of potential alignment. This will help ensure that the cost and administrative burden on participants is more manageable, and consequently will ensure that the changes can be implemented in a timelier and smooth fashion.

(f) Legal issues

It will also be important for certain legal matters to be considered before implementation in order to ensure that the proposals do not give

⁴ For example, regulation (EC) No 24/2009 of the ECB of 19 December 2008 concerning statistics on the assets and liabilities of financial vehicle corporations engaged in securitisation transactions (ECB/2008/30).

rise to concerns for providers and/or recipients of information. Relevant considerations would include the following:

- (i) Bank secrecy and data protection laws need to be considered (whilst the Consultative Paper suggests that the enhanced disclosure requirement with regard to granular asset information will be designed to ensure compliance with relevant bank secrecy and data protection issues in each jurisdiction, it is not clear that all issues have been addressed and in this regard originators/issuers would note that anonymised information is not the only consideration in certain jurisdictions) ó issuers/originators and other parties will need to take specific legal advice on these issues on a case-by-case basis.
- (ii) Securities laws in relevant investor jurisdictions (e.g. restrictions as a result of US securities laws on certain communications with respect to ABS sold into the US) may require electronic "filters" or screening pages, as well as appropriate legends to be used by the data portal providers, in respect of which it may be helpful to have clearance from the relevant regulators.
- (iii) Potential market abuse issues should be considered (to the extent any material information is made available to market participants in a manner which is not public) and market sensitivities in relation to both historic and future information which can have a material impact on the pricing risk and assessment of the transactions and the maintenance of confidentiality in respect of fees paid to third parties.
- (iv) Potential contractual restrictions on disclosure of information in respect of underlying assets should be considered.
- (v) We believe that the requirements should be co-ordinated with a view to the co-existence of the other reporting requirements and templates with reporting and disclosure requirements imposed by other regulations (including Regulation ECB/2008/30).

It will also be necessary to disclose the form in which any granular information will be provided at the time of issuance if the intention is to issue loan-level data contemporaneously with issuance (due to the fact that, where ABS are listed on EEA stock exchanges, all material information is required to be disclosed in the prospectus).

As a result of the above, in order to balance the costs and benefits of the requirement for loan-level data reporting, our members propose that

consideration is given to the fact that, from the perspective of achieving a consistent data quality and format, the dissemination of data should be in the form of a single format provided to the CRAs and the data-handling infrastructure. There should be ongoing coordination and consultation between the Bank, the European Central Bank and other national central banks, the US Security and Exchange Commission (which recently issued new draft regulations), the industry and the CRAs in relation to updates and amendments to loan-level data templates. Originators/issuers welcome the proposal that the Bank would co-operate with other organisations to ensure that the level of detail required in relation to the different asset classes is consistent with the market as a whole.

- (ii) *Do counterparties envisage any constraints in providing loan-level data for a particular asset class?*

In addition to the particular UK master trusts specific issues described above, our members believe that there are other challenges depending on peculiar features of certain ABS markets.

Our members are concerned about the inclusion of credit bureau score information as a loan-level disclosure requirement as there are issues related to the confidentiality of this information. There is currently little consistency in the detail contained in this type of information and there may be issues related to the confidentiality of this data. Originators/issuers would propose creating a task force on this issue to address potential concerns and to provide for sanitisation and standardisation of such information for the purposes of the enhanced disclosure requirements going forward.

Generally, the standardisation of loan-level reporting templates and granular reporting requirements for ABS transactions is a valid concept. Originators acknowledge that standardised templates and reporting requirements would help to harmonise the reporting of information and provide greater consistency in the securitisation markets. However, given the range of securitisation types and underlying asset-level legal and institutional frameworks throughout the relevant jurisdictions, they submit that it is very important that the standardised reporting framework takes into account these differences. This is of utmost importance in order for the reporting regime to be capable of being used by issuers and originators, and to be of use to investors. Originators endorse the approach proposed by the Bank to formalising the enhanced disclosure requirement on an asset-class by asset-class basis; they also suggest that each asset class be appropriately defined and delineated in order to avoid overlap between, and incorrect use of, various reporting templates. Moreover, originators are concerned about the feasibility of loan-level reporting requirement for the most granular asset classes and structures; they welcome

the proposition by the Bank not to request loan-level data on credit card securitisation, and for the same reasons master trust originators recommend that loan-level reporting is not imposed for master trust issues (as previously explained). A detailed discussion of implementation issues for particular asset classes is provided below:

(a) **RMBS**

Originators/issuers would recommend that, for the purposes of the RMBS loan-level data reporting requirements, a clear set of criteria and definitions should be agreed to determine to which types of ABS transactions the enhanced disclosure requirement with regard to granular asset information will be applicable. For this purpose, quantitative and qualitative thresholds could be included to assess whether an ABS transaction qualifies as an RMBS transaction since not all underlying assets of the ABS transaction may be considered residential mortgage loans despite having mortgage-related guarantees as collateral (e.g. particular mortgage loans such as buy-to-let loans may not be classified in all jurisdictions as residential mortgage loans for securitisation purposes). Also, a number of transactions in this asset class have been privately marketed and sold; however, the holding institutions may well retain the opportunity to put forward such collateral for inclusion in the DWF. With regard to RMBS, we reference our comments above on Paragraph 47(i)(b) and (c) relating to UK master trust specific issues and covered bond specific issues.

(b) **CMBS**

In terms of CMBS, it would be quite straightforward to continue to implement loan-level reporting for these since the current market practice is to report on a loan-by-loan basis. The enhanced disclosure requirement could be developed based on current practices. On the other hand, CMBS pools tend not to be very granular i.e., there is a relatively small number of underlying assets in a CMBS transaction, and the assets tend to be heterogeneous and, again, relevant data may vary significantly according to jurisdiction. There may be some common themes that could be reflected in a common CMBS loan-level reporting enhanced disclosure requirement. However, the principal challenge with a CMBS reporting enhanced disclosure requirement will be in fact to capture the particular "non-standard" asset- or jurisdiction-specific aspects of the underlying mortgage loans and properties for investors' decisions.

(c) **Small and Mid-sized Enterprise (SME) Collateralised Debt Obligations (CDOs) and Collateralised Loan Obligations (CLOs)**

With respect to the SME CDO/CLO market, originators/issuers anticipate that SME loan-level reporting on CDO/CLO securitisation transactions will present the most challenges for the standardisation regime. Because these CDOs and CLOs are not currently reported on a loan-level basis, originators/issuers believe that there will be significant IT systemic, cost and practical challenges for market participants to adjust to loan-level reporting (both from the issuer and the investor perspective). To the extent that issuer IT systems must be changed, and third party checks may be required to confirm the reported information (e.g., if IT service providers or others are expected to provide comfort on the data), this presents some practical timing, cost and coordination challenges for market participants. However, originators/issuers submit that loan-level data may not be appropriate for the SME CDO and CLO market. A portfolio on a single CDO can be very granular and the portfolios across the SME CDO/CLO market are varied. This would make the development of a standardised template challenging. In the case of CLO transactions that involve SME loans, the SME loan market, by its nature, has limited secondary market liquidity and available pricing, and there are often cases where loan-level information is not obtainable from underlying borrowers. Also, many of the underlying loan documents, and CDO/CLO transaction shadow-rating arrangements with rating agencies, contain confidentiality provisions which will need to be considered.

In Collateralised Bond Obligation (**CBO**) transactions, the list of bonds is provided to investors since the underlying assets are public securities; this is also the case for the leveraged CLO market. In these markets, investors rely on this asset level information in order to assess the credit risk of the transaction.

These issues would need to be considered and addressed in any reporting regime requiring loan-level information at the frequency and at the level of detail currently proposed by the ECB.

(d) Student Loan ABS

The opinion of the majority of AFME / ESF members is that much of the Student Loan ABS is currently originated out of the US. As such, there may be some difficulty in the requirement that US originators (as well as originators located in other jurisdictions) adjust their processes to comply with the eligibility requirements for access to the Bank's DWF, unless the requirements are aligned and coordinated with US regulatory with US regulatory and market requirements. Whilst existing originators would probably be most resistant to taking on such

administrative burdens, new originators might be discouraged from securitising.

Our members are of the opinion that, for all asset classes, agreement by all parties on an industry standard data template for given asset classes, on an asset-class by asset-class basis, is a pre-requisite for implementing any market-wide solution. In general, the practical issues increase both with the size of the asset pool (whether very large or very small) and the pool's diversity. This is a particular concern in relation to large portfolio RMBS (and particularly master trusts), but also provision needs to be made for the increased data volumes lower down the credit spectrum (i.e. when the size of loan diminishes; from mortgages through secured, unsecured loans to credit card debt). It is our view that the success of a standardised reporting template with asset-level information in the case of other less common asset classes would be limited. This is because of the diversity in both the nature of the asset securitised and the securitisation structures used, meaning that the value of a standardised reporting template is diminished.

We believe that RMBS is likely to be the dominant asset class for the foreseeable future although investors believe that new issuances will increase in the consumer loans, credit card loans, student loans, auto loans and loans to SMEs sectors. Investors therefore propose that the loan-level data disclosure should apply to all asset classes (and not only RMBS) with a slight delay for less common asset classes. Moreover, investors continue to stress the benefit of receiving any detailed information in the short term even if not in a standardised format.

Both issuers/originators as well as investors recommend that the RMBS loan-level enhanced disclosure requirement with regard to granular asset information is implemented with a "comply or explain" approach if issuers/originators are not able to provide the requested mandatory information.

Whilst our members welcome enhanced disclosure and the principle of transparency introduced by the Consultative Paper, originators/issuers would encourage the Bank to be careful that any measures made do not, by way of blanket application, necessarily preclude the inclusion of ABS asset classes which are currently eligible for participation in the DWF scheme.

Also, our members believe that some provisioning should be made in case new asset classes or esoteric new securitisation structures come to market in the future to identify which template should be applied depending on the type of underlying assets and frequency of interest payment dates.

- (iii) *Do counterparties envisage any constraints in providing loan-level data on each bond payment date and stratification data on a monthly basis?*

Our members are of the opinion that the frequency of reporting proposed by the Bank (i.e. the production of loan-level data on each bond payment date; and for revolving pool of assets, each time a new pool is added) may present challenges to issuers and originators and may be difficult for market participants to comply with, which in turn may adversely affect the quality of information provided in some cases. Providing monthly stratification data would have significant cost and administrative implications for issuers, with limited benefit. Originators/issuers propose that the Bank requires loan-level reporting to be aligned with payment dates, as is currently industry standard, with a minimum quarterly frequency. Existing data reporting is timed to coincide with deal payment dates (usually quarterly). Providing data on a more frequent basis (e.g. monthly) would have significant resource and thus cost implications for issuers and some members question the benefit of this. Additionally, originators/issuers support a consistent standard being applied all across Europe.

- (iv) *Would historic performance data (e.g. over at least the past three years) and a loan-level pool cut at closing be readily available?*

Whilst some historic performance data and a loan-level pool cut at closing may be readily available for some existing ABS, it is unlikely that they will comply with the detailed standards proposed by the Consultative Paper. When specific mortgage pools are securitised into closed pool deals (which is a common practice among smaller issuers) the level of seasoning within the pool may be long and therefore historical data on the actual pool may not be available. Therefore, whilst the Consultative Paper suggests that such information as available would be useful to investors and important for effective risk analysis, originators/issuers propose that the submission of historic information for existing transactions should remain outside the enhanced disclosure requirements.

Originators hope that the Bank will take a pragmatic approach in implementing the requirement for originators to submit historic performance data. The provision of such data poses additional challenges, in terms of preparation, analysis and interpretation. Historical data cover portfolios which are different from the one securitised in a particular transaction (i.e.; different vintages, as well as product types). Selecting a portfolio which is similar to the one securitised may not be possible (e.g., when the originator has significantly changed its product or geographic mix). Even when a comparable portfolio has been selected, the performance depends on economic conditions which do not depend only on the quality of the underlying assets and investors will need to include this in their analysis. All these issues make interpretation of the

performance data difficult, although not impossible. Also, recording processes and definitions of delinquency, arrears and prepayments are not currently standardised in the securitisation market (not even in each jurisdiction); therefore comparing information provided by different originators would be an additional challenge for investors.

- (v) *How long would it take for banks/issuers of ABS to develop their systems to regularly provide such data?*

An immediate and abrupt implementation of the requirement to report loan-level information at the frequency and in the level of detail proposed by the Bank may be difficult for market participants to comply with and, therefore, may even adversely affect the quality and reliability of the information provided. This will be an issue particularly in the early stages of the reporting regime, during which participants will need to ensure they have established the necessary framework to comply with the Bank's enhanced disclosure requirements. In addition, the initiatives under the CRD which impact the need for data, are still to be implemented into national legislation. Our members, including originators and investors, believe that timing of the implementation should broadly be in line with the feedback from the ECB Consultation, i.e., approximately twelve months following the announcement date. However, it may be that some less frequent, smaller issuer/originators will find this timetable challenging due to the administrative, cost and IT burdens. Investors also agree with the envisaged preparation time of twelve months.

Our members recommend that the new enhanced disclosure requirement be phased in over time, starting with RMBS transactions which comprise the largest securitisation transaction type. Other asset classes are more or less granular and raise different concerns and, therefore, the provision of loan-by-loan information for these other asset classes, such as CMBS and SME CLO securitisations would need to be developed and addressed separately. Investors continue to stress the benefit of receiving any detailed information in the short term even if not in a standardised format.

In all ABS, there will be cost, operational, legal and IT systemic challenges to address ó for originators, issuers, servicers and investors ó in implementing a new reporting regime. This will be more or less challenging for each type of ABS, with regard to the underlying nature of the relevant assets, market or legal jurisdiction. Issuers/originators have therefore submitted that there should be a transitional approach, under which different levels of detail and frequency are gradually phased in for different types of ABS transactions and asset classes.

Issuers and originators believe that there should be a differentiation between the approaches used with regards to the submission of data relating to new securitisation transactions and those of existing ("legacy") securitisation transactions, even though not all investors are fully supportive of this. Issuers and originators would welcome a system whereby information submitted in relation to new securitisation transactions (i.e., transactions completed with securities issued following the date of implementation) would be expected to conform to the enhanced disclosure requirements with regard to granular asset information. However, issuers and originators believe it would be more difficult to ensure that data relating to existing securitisation transactions and assets conform to such enhanced disclosure requirements. The cost, operational, legal and IT systemic challenges would be much more significant to "convert" existing deals to the new reporting approach and, indeed, may be of limited use to investors' understanding of the risk evolution inherent in those transactions. As highlighted earlier, providing ongoing data in respect of master trusts presents significant logistical issues. The provision of historical data would prove significantly more challenging. Also, pool data for either master trusts or closed pools, may differ significantly between issuances. Cash-flow analysis for any given issuance will only be relevant for the current pool and, therefore, loan-by loan historical data would be of little actual value for the cash-flow analysis for such issuance. Issuers and originators therefore propose that some flexibility should be allowed for existing deals and assets (for instance, by building in a grandfathering period or by accepting, as of the implementation date, the inclusion of particular assumptions as well as representations and warranties, with appropriate disclosure).

In order to address the needs of market participants for new transactions, issuers and originators would also recommend that the Bank's reporting requirements include the flexibility that where originators are unable to submit the loan-by-loan information within the necessary timeframe, such cases can be raised with the Bank and dealt with on a case-by-case basis, i.e., to determine whether a longer period for compliance or whether a partial or full exemption from submission of such data may be granted, including provision of assumptions with appropriate disclosures.

Paragraph 54

- (i) *Do issuers perceive any problems in ensuring cash-flow models, as verified by the issuer or arranger, are made available to investors?*

Issuers have expressed concern in respect of this potential eligibility requirement. Cash-flow models are most often prepared by CRAs in order to analyse securitisations, and by arrangers when structuring deals. The potential issue with the disclosure of cash-flow models is that they are proprietary and not usually made publicly available, even to issuers. Issuers and originators do

not therefore validate the models themselves. There is a concern that any rights to the intellectual property in respect of any cash-flow model would be impeded by its widespread publication, by which the information will be made available to competitors thereby posing challenges to the viability of CRAs and arrangers business models. Also, there are important issues as to the development costs and liabilities involved.

Also, arrangers and originators have expressed concern at the potential issue with the disclosure of proprietary cash-flow models. Such models may be developed by arrangers and/or originators internally; however, smaller issuers do not generally produce models (they rely on results of models used by CRAs in their rating process). Therefore, this requirement may preclude participation by smaller issuers/arrangers. In addition, originators and arrangers have expressed concerns in respect of this potential eligibility requirement due to the liability that they could incur if investors rely solely on the model they have provided. Again, this may impose costs that will pose challenges to the viability of CRAs and arrangers business models, thereby not being supportive of the opening of the markets and the increase of activity and liquidity.

CRAs suggest that models which are publicly available and currently used widely within the market, such cash-flow models should be used in such circumstances. The fact that this is publicly available and accepted in the market addresses a number of the concerns outlined above. However, the members have concerns about the Bank endorsing a single model provider.

As result of the points raised above, our members would welcome further clarification from the Bank as to the nature and extent of disclosure expected with respect to the making available of cash flow models to investors and the nature of verification required by issuers and arrangers.

In particular, we would appreciate further guidance on when the model needs to be made available and when investors need to prove that the model diligence has been completed. This guidance will, in turn, define when each party engaged in developing the model needs to be involved in the process and at what point sellers/originators and issuers/arrangers must have a finalised model available for analysis.

In relation to points raised at paragraph 58 and 59 of the Consultative Paper, our members have indicated that permitted investment criteria, waterfall triggers and counterparty details are usually very simple and are already adequately reported in prospectuses. Solvency certificates are usually provided at closing. Originators/issuers are of the opinion that the provision of further data in this respect would not add any value.

- (ii) *Does there need to be a degree of uniformity in how the models operate?*

Cash-flow modelling forms one aspect of the assessment of an issuer's ability to repay principal and interest. The approach to evaluating and modelling the risks will differ between CRAs, arrangers and investors (who may well use their own models). Our members are of the opinion that a uniform standard would, therefore, seem inappropriate. In addition, having a single model provider could present the same disadvantages, due to a lack of competition, as we discuss in our response to Paragraph 62 below in respect of having a single data depository.

In addition, given the concerns mentioned above in relation to the intellectual property relating to the publication of cash-flow models, originators/issuers would welcome the opportunity for further consultation with the Bank as to how best to proceed to achieve any degree of uniformity or a standard cash-flow model which would be applied in respect of the ABS disclosure requirements.

- (iii) *Are there any other parties who would be suitable as providers of cash-flow models?*

There may be third party firms such as cash managers and servicers willing to develop and provide the models to the market to the extent they have available data.

Investors welcome the proposal at paragraph 58 of the Consultative Paper where the Bank suggests that this publication would be made "in order to quantify the extent to which the notes are exposed to swap counterparties". However, there is some concern that as there is typically no automatic valuation mechanism in respect of transaction swaps and valuations can be obtained by different trading desks, which might provide significantly different results as such, any publication of such values would need to be careful to ensure that they are not misused. Mark-to-Market (**MTM**) values change very frequently so any information disclosed with a time lag as short as one day would only be valid for the date on which the valuation was done. The more complex balance-guaranteed, cross-currency or basis swaps require sophisticated software and systems to produce accurate and regular MTM values; consequently, this responsibility is allocated to bank counterparties (and generally only apply when collateral is actually required to be posted, e.g., following a downgrade). Such requirement potentially exposes issuers to liability if reliance is placed on any published value of a swap at a specific point in time. We believe that it is more helpful to explain the key features and purpose of the transaction swap or swaps, as is currently done on transactions. Alternatively, it could be useful to provide the evolution of the pricing of the swap during the reporting period and to flag specific issues if the pricing vary more than a certain percentage during such interval. Issuers/originators would appreciate further guidance on who should provide the

valuations and by what methodology. Also, originators/sellers and issuers' arrangers believe that a distinction should be made between new transactions/securities and historic/existing transactions/securities. On historic/existing transactions, it may not be possible to amend documents and require the transaction parties to deal with swap valuations differently than they have previously, or the cost and administrative burden of doing so may be prohibitive.

Paragraph 62

(i) *Is a single data depositary or separate websites preferred?*

Originators/issuers see this question as to how to the storage and dissemination of ABS information as being a two-stage question:

(a) Whether a single data depositary or separate websites would be preferable.

As such data is already provided to parties such as CRAs, once a standardised template has been agreed and implemented, it would seem most appropriate for these agencies, where permissible, to make this data available to the Bank directly.

(b) If a data depositary is preferable, how will this be implemented?

As raised in our response to the ECB Consultation, some of our members support the option of a single data depositary (Option 1), while some support having multiple providers (Option 2), and originators/issuers can see there are advantages and disadvantages to each approach.

Option 1 (i.e., having a single data portal) would provide originators/servicers with a single entry point for submitting the data. However, Option 2 (i.e., several registered data portal providers competing to offer the service to the market) would offer a shorter turn-around time of data submission and it could also be much cheaper than Option 1. In addition to the reputational risks associated with having one data portal provider, one data portal provider may charge excessive subscription rates, whereas a set of registered portal providers would have to compete to provide the best service at the lowest cost. Having a hybrid of both options, i.e., a single data warehouse with a number of data portal providers would prove even more costly than Option 1.

Issuers/originators in particular jurisdictions would also favour having a set of jurisdiction-specific data portal providers, as the portal providers would have local knowledge of the market. This should eventually increase the quality of the information available. However, in this regard, it is important to streamline the system in order to avoid

multiplying costs for issuers by requiring them to provide data to multiple portal providers.

It is important that further clarity is provided as to how the data portal provider(s) will be selected, whether there will be a minimum quality standard of data portal provider(s) (and who will determine and monitor that), and who will bear the costs for uploading and maintaining information onto the data portal. Further clarity is welcome as to the role of the data portal providers, in particular whether this will be a simple data storage function or if the data portal provider(s) is/are expected to check or verify the data (and, if so, to what standard, and whether this monitoring/checking function will itself be overseen by a supervisory body).

Investors are happy with either Option 1 or 2, as long as the delivery method is efficient and timely and the data is accurate. Some investors have indicated that they favour option 1 but they would suggest phasing the disclosure of loan-by-loan data over time, with first the data being made available through multiple channels such as the trustee websites and data providers and later on through a single data portal. Other investors (some of whom believe Option 1 may lead to increased costs) support competition in the market and therefore prefer Option 2.

As the issue of the publication of ABS information was also dealt with in the ECB Consultation, investors have expressed concern as to any potential for a disparity in the approaches which may be implemented by the ECB and the Bank. Investors are concerned that participants may be required to publish the same information to differing systems in order to comply with the similar requirements placed on them by the ECB and the Bank. They believe that this would be an undesirable result and not only be time-consuming and lead to increased costs but may also be confusing for participants who wish to have access to such information. As a result, originators/issuers would strongly encourage dialogue between the Bank and the ECB on this matter in order to achieve consistency in the market.

Paragraph 67

- (i) *The Bank seeks views on the possible introduction of an eligibility requirement for standardised documentation. Would there be an appetite for a market-led initiative to achieve this?*

Our members welcome the introduction of greater transparency in relation to information on securitisation structures proposed within the Consultative Paper. They believe that the proposals for publication of prospectuses and underlying documentation in electronic format are reasonable and desirable to achieve this goal. Originators are keen on working in co-operation with the

Bank to ascertain which information is relevant and may have a material impact on the pricing and risk assessment of the transactions. Only documentation which is relevant to issues should be made available and there should be exemptions for the submission of certain information such as the fees paid to third parties and specific disclaimers and/or commentary to explain changes over time. Further, publication of prospectuses and underlying documentation may be problematic and may not be possible immediately following completion of a transaction due to the time required to create conformed/execution copies of documents and that the potential costs associated with the publication of such documents will be borne by issuers. Members also strongly recommend that this disclosure requirement should only apply in relation to future ABS and that historic ABS should be exempted on the basis that documentation that was previously entered into at the time of issuance may not be capable of being amended or replaced, or doing so would impose undue cost and administrative burden.

- (ii) *The Bank would be interested in obtaining participants' views on the desirability of greater pricing transparency.*

Our members believe that greater pricing transparency would be of benefit for both issuers and investors.

Paragraph 69

- (i) *The Bank would be grateful for feedback from its counterparties/issuers of ABS as to minimum feasible timeframes for each of the proposals.*

As mentioned above, market participants welcome and appreciate the need for implementation of loan-level data provision as soon as possible. Originators/issuers are of the opinion that the proposed timescale for the implementation of the various requirements into the Bank's eligibility criteria is broadly in the related ECB Consultation (which it is envisaged will be implemented approximately twelve months after the announcement date). Consequently, originators/issuers would welcome the phasing in of the Bank's eligibility criteria, beginning with the more straight-forward RMBS transactions, to commence at the beginning of 2011. More specifically, originators/issuers would suggest that the following areas are considered separately by the bank in terms of timing of implementation:

- (a) Granular asset information (loan-level reporting).

The implementation should follow the timing of the ECB project on disclosure of loan-level data.

- (b) Investor reporting.

This could realistically be implemented together with the provision of loan-level data (see above).

(c) Other information on securitisation structures.

Standardisation of documentation and definitions: the industry is already working to achieve agreed standards; therefore, implementation should be delayed to allow for the conclusion of such initiative (envisaged in Q2 2010).

(d) Post-trade reporting.

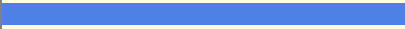
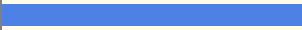

Originators/issuers support improvements in the provision of pricing information. Originators/issuers note that proposed amendments to the Market in Financial Instruments Directive (**MiFID**) are due to be consulted later in 2010. Additionally, there are initiatives under way to measure liquidity for fixed income instruments based on a number of variables. Also, a number of investors and dealers are currently discussing potential solutions across fixed income instruments for a consistent approach.

Originators/issuers would recommend for the implementation of the post-trade reporting requirements to be deferred and in order to allow for further dialogue between the issuers, investors, dealers and the Bank in order to find a desirable solution.

(ii) *Do investors in ABS have any views on these proposals and whether the data the Bank is looking for would be useful? Is there any other data investors might find useful?*

An investor survey was undertaken by AFME / ESF in order to collate views from the investor community with respect to some of your key questions. The results of the survey are provided below from thirty one respondents representing a wide variety of investor types across Europe:

Percentage of the ABS investments among the respondents:

#	Answer	Response	%
1	SENIOR TRANCES		28 90%
2	MEZZANINE TRANCES		21 68%
3	EQUITY TRANCES		6 19%

Question 1: Would loan-level data be of use to you?

#	Answer	Response	%
1	YES	24	77%
2	MAYBE	7	23%
3	NO	0	0%
	Total	31	100%

Question 2: If originators provided loan-level data, what is your capability to manipulate and use the large amount of data that would be provided?

#	Answer	Response	%
1	WE HAVE THE CAPABILITY TO USE THIS FORM OF DATA	20	67%
2	WE ARE NOT INTERESTED IN LOAN-LEVEL DATA	0	0%
3	WE WOULD LOOK TO THIRD PARTIES TO PROVIDE PRODUCTS TO HELP ASSESS THIS DATA	10	33%
	Total	30	100%

Question 3: Would standardised investor reports make analysis of ABS?

#	Answer	Response	%
1	SIGNIFICANTLY EASIER	26	84%
2	MARGINALLY EASIER	3	10%
3	MAKE NO DIFFERENCE	2	6%
	Total	31	100%

Question 4: Would historical performance data be of use to you (i.e. performance data for the loans prior to securitisation)?

#	Answer	Response	%
1	YES	27	87%
2	MAYBE	3	10%
3	NO	1	3%
	Total	31	100%

Question 5: Would more accurate cash flow models be of use to you?

#	Answer	Response	%
1	YES	26	84%
2	MAYBE	3	10%
3	NO	2	6%
	Total	31	100%

Question 6: Would a standardised summary of the legal structure of each transaction be of use to you?

#	Answer	Response	%
1	YES	28	90%
2	MAYBE	1	3%
3	NO	2	6%
	Total	31	100%

- (a) Investors suggest that all market participants will benefit from the significantly enhanced ability of cash flow modelling engine providers to use loan-level data rather than aggregated information in their models. Increased accuracy will help all investors that subscribe to those modelling engine providers. Enhanced modelling capabilities will undoubtedly produce much needed enhanced liquidity to the European market as both sides of the trade will be modelled on the same loan-level input assumptions (investors recognise that much greater relative liquidity in the US markets has been driven by this factor). According to some investors, cash flow models based on preliminary offering circulars should be made available to investors during the marketing period in order to allow them to incorporate cash flow runs in their analysis of the transaction. Some cash flow providers already provide this type of service at investors' request before closing.
- (b) Investors are also supportive of the provision of loan level data to all classes of investors and all market participants as the provision of information to only some investors (for example those in the more junior classes, or solely those that currently hold the securities) would cause an unhelpful information asymmetry between investors and/or potential investors and potentially could be in breach of regulations (such as the Market Abuse Directive⁵). Some investors recommend that loan level data disclosure

⁵ Comprising Directive 2003/6/EC and implementing Directives 2003/124/EC and 2004/72/EC.

requirements apply to all asset classes including not only RMBS (including UK master trusts) but also consumer/auto ABS, SME CLOs, lease ABS and CMBS; with a slight delay for asset classes for which a template is not ready yet. As far as SME CLOs are concerned, the need for loan by loan data is all the more critical as pools are sometimes less granular. Having different but standardised loan-level reporting templates for each asset class makes perfect sense as it recognises the difference of loan characteristics across asset classes and countries.

- (c) Investors would also welcome the provision of historical performance data over at least the past three years or even over a longer period to be able to analyse the performance of portfolio of loans similar to the ones securitised throughout economic cycles.
- (d) It is also highly likely that the new requirements of the CRD, in particular Article 122a which increases investors' due diligence of not only underlying assets but also structures and cash flows, are likely to have an impact upon investors' behaviour as well as the need for data and capabilities to assess transactions on the basis of such data.
- (e) As far as the timeframe for delivery of information is concerned (loan-by-loan data, historic performance data, cash flow models, investor reporting including MTM of swaps), investors believe that a twelve month timeframe is reasonable but would expect that information already available to originators/issuers for disclosure to CRAs should be publicly disclosed earlier. For example, originators which already provide loan by loan information to CRAs, disclose this information earlier at the beginning of 2011. Information could be disclosed using existing formats and through existing multiple channels before migrating to standardised formats.

Further information is welcome as to the final form the DWF eligibility criteria will take, its application in relation to existing and new ABS and the Bank's wider co-ordination and co-operation with relevant bodies in order to create a consistent approach. As described herein, there is a concern among originators/sellers and issuers/arrangers that the cost and administrative burden of some of the proposed requirements could outweigh any benefits (particularly in the case of historic and existing deals). Implementing these could have the adverse effect of not supporting the opening of the markets and increased liquidity.

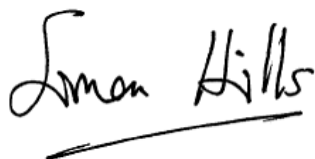
Our members are keen to continue to participate in an on-going dialogue with the Bank and the industry before the proposals are introduced. Originators/issuers, investors and dealers would be happy to discuss any of these comments further and hear your views on our response. In particular, we suggest that once the Bank has determined the general approach and structure for the changes to its operations, a further discussion be undertaken specifically with originator/seller and issuer/arranger IT departments and third party servicer providers in order to develop the details and scope of required IT and operational systems changes (and the cost and timing implications of these). All market participants anticipate that the requirements may potentially trigger changes all the way down the asset origination level.

Yours sincerely,



Rick Watson
Managing Director
Chief Operating Officer
AFME / ESF

Folake Shasanya
Director
AFME / ECBDA



Simon Hills
Executive Director
British Bankers Association



Michael Coogan
Director General
Council of Mortgage Lenders